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Budget woes may slow ethics reform

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Some lawmakers hope maybe this will be the year ethics reforms make it through the Legislature.

Every session, lawmakers sponsor ethics bills. Gov. Bob Riley has harped on the subject for years. Right now, one senator is awaiting sentencing on a corruption conviction and the fraud trial of a representative may go to the jury today.

Riley, a Republican, has said looming corruption trials and the resulting bad publicity is simply bad for business -- literally. It scares off economic development.

"He said it's like driving with one foot on the gas and the other on the brake -- it gets you nowhere," Todd Stacy, press secretary for Riley, wrote in an e-mail. "When you consider the recent headlines about indictments and convictions all related to ethics and what that has done to our state's reputation, it becomes pretty obvious that action needs to be taken."

Other boosters of ethics legislation hope the bad ink may produce a positive result by finally bringing tougher laws and needed change.

The senate seat of E.B. McClain, D-Midfield, sits empty this session because of his conviction.

Rep. Paul DeMarco, R-Homewood, introduced a bill while his Democrat colleague Sue Schmitz of Toney was standing trial for fraud.

DeMarco's bill has a Democratic sponsor in the Senate and the support of House Speaker Seth Hammett, who sponsored the last comprehensive ethics reform in 1995.

Ethics low priority for some.

Several Democrats, including Senate President Pro Tem Rodger Smitherman, have said the pressing needs caused by the bad economy will push ethics to the back burner.

Smitherman, D-Birmingham, said lawmakers will be more focused on creating jobs, protecting Medicaid and children's health insurance, maintaining small class sizes and keeping nurses in schools, and ensuring that students have books and meals.

DeMarco said yes, pocketbook issues are the top priority, but he said the people he represents want ethics reform.

He is from Jefferson County, where several top officials have been arrested, charged or convicted, he said.

Lawmakers who introduced ethics bills in years past sought greater transparency, more accountability, and some teeth for the Alabama Ethics Commission.

Michael Ciamarra, vice president of the non-profit Alabama Policy Institute, has been working with DeMarco on his legislation.

Ciamarra was policy director for Gov. Fob James when the Legislature passed the last comprehensive ethics reform in 1995.

The bill has bipartisan support, DeMarco said.

"Paul will push hard down there. I will push hard up here," pledged Senate sponsor Tom Butler, D-Madison.

He said many bills die from "benign neglect" because the sponsor introduced too many bills and can't give full it full attention.

The highlights of DeMarco's proposal include:

- Mandatory ethics training for constitutional officers, legislators, lobbyists, public officials and public employees;
- Broadens the definition of a lobbyist to include those who lobby the executive branch;
- Provides for the electronic filing of campaign finance reports, lobbying activities and other reports;
- Revises the categories on statement of economic interest forms, which currently are very broad and do not give very specific information on income, investments and other financial interests. Public officials in the state are required to file the forms;
- Mandates that someone who has been nominated for the Ethics Commission automatically becomes a member of the panel if the Senate has not confirmed that individual within 15 legislative meeting days. Butler said the measure ensures there are no vacancies on the commission;
- and changes definitions in the ethics law to include family members of a public employee and issues regarding personal gain and "sphere of influence."

DeMarco's bill contains a proposed change to the ethics law, which Riley also plans to include in his proposal, intended to keep one member of the Ethics Commission from stopping the commission from opening an investigation when it does not receive an ethics complaint. Currently, all five members must approve moving forward with the investigation. The change would require authorization from only four members.

"Rep. DeMarco's bill contains some good provisions that would strengthen Alabama's ethics law," Stacy wrote. "What the governor has proposed is a comprehensive rewrite of the ethics code and authorizing subpoena power for the Ethics Commission. That's what will be introduced in the Legislature (this) week."

Riley's proposal

Riley supports the most sweeping overhaul of the ethics law since 1973, according to his office.

Stacy wrote in the e-mail that Sen. Ben Brooks, R-Mobile, and Rep. Mac Gipson, R-Prattville, likely will introduce those bills for Riley this week.

"This is without question one of the most important bills the Legislature will take up this session, and arguably one of the most important in decades," Stacy wrote.

The governor's proposal would require the attorney general's office or a local prosecutor to state within 180 days whether they intend to pursue a case recommended by the Ethics Commission.

Currently lobbyists can spend up to \$250 a day on a lawmaker without reporting it, and Riley and several lawmakers want that stopped, pointing out that a lobbyist could spend \$91,000 a year on an elected official without reporting it.

Riley wants full disclosure of all spending.

The governor also wants to stop lawmakers from arranging consulting jobs with entities that receive public funds including grants and contracts they don't have to disclose.

Other proposals

State Rep. Cam Ward, R-Alabaster, also is sponsoring a bill that would give the Ethics Commission

subpoena power.

Riley and Seth Hammett, D-Andalusia, support giving the ethics commission subpoena power.

Hammett, who is speaker of the House, said he is unsure how much support there is for giving subpoena power to the commission.

A House committee already passed Ward's bill, which now could come up before the full House.

Hammett mentioned two pieces of ethics legislation Thursday he would like to see passed this year, including Ward's subpoena bill and DeMarco's ethics overhaul.

Ciamarra said the commission needs subpoena power, but "that is not the end all be all."

Lack of teeth

The director of the Alabama Ethics Commission said everything in DeMarco's bill "would significantly help us."

Jim Sumner said he worked with DeMarco on every draft of the bill.

He said the lawmaker approached him after the previous legislative session and said he wanted to reintroduce his mandatory training bill and asked if there were some other areas where the commission needed help.

The director said the commission keeps a running list of tools they need and changes that would help them perform their duties. Having subpoena power and not allowing lobbyists to spend \$250 a day on lawmakers without reporting it are at the top of the list, he said, but there are others.

Sumner said two of the key proposed changes in DeMarco's bill would be making the financial increments on the disclosure forms more specific and lowering the number of commissioners who need to vote to open an investigation. That method allows the commission, when it has not received an ethics complaint, to open an investigation, which would be heard by a three-judge panel appointed by the chief justice of the Alabama Supreme Court. The process is different when the commission receives a complaint.

"If you could do it by a vote of four members, that would be a great help to us," Sumner said. "That just gives us a little better shot of initiating that investigation."

He said the process is cumbersome and rarely used.

There needs to be more comprehensive ethics reform than just handing the necessary tools to the Ethics Commission, Ciamarra said.

"There is more to it," he said.

Ciamarra said people would agree the Ethics Commission needs "sharp teeth" and needs sharp tools to do their job. He believes that can be done.

The Ethics Commission has taken the initial step in modernizing its system this year by putting reports online for public officials to submit and for citizens to view.

Rush to action

Ciamarra said lawmakers often rush to pass ethics legislation after convictions or negative headlines in a state.

Some states, he said, in that rush often pass overly restrictive laws or laws with unintended holes in them.

In a "quest to do anything," lawmakers have passed bills with unintended consequences, Ciamarra said.

He said the issue needs to be looked at in a calm and reflective manner.

"There is a public outcry for something to be done," Ciamarra said. "It needs to be thoughtful and reflective."
